

Data Protection Policy

v.2.0 – January 2024

Information Governance

**Policy cover sheet**

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| **Policy Title:** | Data Protection Policy |
| **Related Policies:** | Law Enforcement (Data Protection) Policy; Protecting Special Category Data Policy; Individual Rights Procedure. |
| **Contact:** | Information Governance TeamInformation.governance@doncaster.gov.uk |
| **Freedom of Information:** | This Policy and all information within it are suitable for release under the Freedom of Information Act 2000. |
| **Equality Impact Assessment:** | This Policy has been assessed as having no impact on any protected group.  |
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| 2.0 | Amended to reflect changes to legislation (UK GDPR), changes to council name, merging of information security policy (non technical) into this document |
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**1. Summary**

This policy sets out how the council will comply with data protection legislation and protect the personal information of everyone who receives services from, or provides services to, the council. It informs customers of their rights, and suppliers of their responsibilities. It shows how we comply with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018, other regulations, information security standards and other good practice standards.

**2. Scope**

This policy applies to employees, contractors, agency staff and councillors.
It covers personal data we collect and use on paper and electronically. It covers our corporate databases, network and paper records. It covers video and photographs, voice recordings, CCTV and mobile devices such as laptops, mobile phones, memory sticks and pendant alarms.

**3. Accountability**

The *City of Doncaster* *Council* is a data controller which means that it decides why and how personal data is processed. It is accountable for its handling of personal information.

Our *Chief Executive* is the person accountable for providing the policies for employees to follow under the law, so that we can carry out decisions of the Mayor and council in response to our statutory functions. The Data Protection Policy is part of our corporate governance framework.

The *Senior Information Risk Officer* (SIRO) is the Assistant Director of Legal and Democratic Services who is accountable for protecting the council’s information assets.

The *SIRO Board* is made up of assistant directors and gives strategic guidance to the SIRO and Caldicott Guardians for the management of the council’s information assets. The SIRO Board gives direction to Information Asset Owners who are Heads of Service.

The *Caldicott Guardian* is responsible for protecting the confidentiality of people's health and social care information and making sure it is used properly. Within City of Doncaster Council we have this role for both Adults and Children’s social care services. For adult social care, the Caldicott Guardian is the Assistant Director of Adult Care. For children’s social care, the Caldicott Guardian is the Principal Social Worker.

The *Technology Governance Board* is made up of assistant directors and senior managers and has a remit for governance in the development of ICT systems.

The *Data Protection Officer* is a position required in law to ensure the council complies with data protection legislation.

Each *employee* and *supplier* is bound by a contractual duty of confidentiality.

The council is registered with the *Information Commissioner’s Office*, who is the independent regulator appointed by parliament to ensure compliance with data protection law.

The council maintains a *register of processing activities* (Information Asset Register) of the personal information we are responsible for to ensure it is used according to the data protection principles.

All *Heads of Service* are *Information Asset Owners (IAOs)* for the data processed by their service. They have responsibility for, and are held accountable for, the management of Information Assets.

**4. Definitions**

The *UK General Data Protection Regulation* (UK GDPR) is the retained UK version of the General Data Protection Regulation (EU) 2016/679.

The *Data Protection Act 2018* is UK law which supplements UK GDPR

*Personal information* means any information relating to an identifiable living person. This means they can be identified from information such as a name, an address, an identification number (e.g. your National Insurance number, NHS number or case reference number), location data etc.

*Special category data* is data regarding an individual’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data and biometric data (fingerprints, eye scans etc.), data concerning health or data concerning a person’s sex life or sexual orientation. There are extra safeguards for special category data to ensure no one is discriminated against when it comes to receiving a service.

The *processing* of data means any operation performed on personal data, whether using a computer or manual filing system. It includes collection, use, and recording, storing, sending and deleting personal data.

*Information Governance (IG)* is the control of information, assessing its value, ensuring it is appropriately managed, accessible, accurate, processed lawfully, secure and disposed of when appropriate.

Many organisations use the *Government Security Classification Scheme* marking all documents as Official, Sensitive etc. The Council does not require marking of documents. However, we consider all information to be confidential and decisions regarding publication, sharing of data etc are made on this basis, i.e. all data must be held securely unless a legitimate decision to share has been reached.

**5. Data Protection and Human Rights**

Under the Human Rights Act 1998, everyone has the right to respect for their private and family life, their home and their correspondence. This includes respect for your private and confidential information, particularly when storing and sharing data.

This right can be limited in certain circumstances but any limitation must balance the competing interests of an individual and of the community as a whole.

In particular any limitation must be covered by law and be necessary and proportionate for one or more of the following aims:

* public safety or the country's economic wellbeing
* prevention of disorder or crime
* protecting health or morals
* protecting other people's rights and freedoms
* national security.

The right to privacy must often be balanced against the right to free expression. Public figures don’t necessarily enjoy the same privacy as others. For example, sometimes the public interest might justify publishing information about senior officers or councillors that would otherwise interfere with their right to privacy.

**6. Data Protection Principles**

The council is required to comply with the data protection principles when processing personal data. These principles are set out in the UK GDPR and have been incorporated into the Data Protection Act 2018. The six principles are that personal data should be:

* Processed lawfully, fairly and in a transparent way
* Collected for a specific purpose
* Adequate, relevant and limited to what’s necessary
* Kept up to date
* Kept for only as long as necessary
* Protected with appropriate security.

**7. Lawful Basis for Processing Personal Data**

There are different lawful reasons for processing personal data and special category data. The council must have at least one lawful basis for processing personal information and at least one lawful basis for processing special category data.

The six lawful reasons for processing personal data are:

1. The data subject has given consent to the processing of his or her personal data for one or more specific purposes

2. Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

3. Processing is necessary for compliance with a legal obligation to which the controller is subject

4. Processing is necessary in order to protect the vital interests of the data subject or of another natural person

5. Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller

6. Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child

Processing of special category data is prohibited unless one of the legal reasons in the list below apply:

1. The data subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where domestic law provides that the prohibition referred to above may not be lifted by the data subject

2. Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by domestic law or a collective agreement pursuant to domestic law providing for appropriate safeguards for the fundamental rights and the interests of the data subject

3. Processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent

4. Processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects

5. Processing relates to personal data which are manifestly made public by the data subject

6. Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity

7. Processing is necessary for reasons of substantial public interest, on the basis of domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject

8. Processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of domestic law or pursuant to contract with a health professional and subject to certain conditions and safeguards

9. Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of domestic law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy

10. Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) (as supplemented by section 19 of the 2018 Act) based on domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

The council must always demonstrate it processes information with safeguards in place to protect the fundamental rights and interests of the individual.

As the Council provides statutory services we do not often rely on consent as the lawful basis (of those listed above) to process data. However, where we do, we must ensure that consent is freely given, is not a precondition of a service, a record is kept of consent, and people can withdraw consent.

**8. Duty of Confidentiality**

Data processed by the council is also subject to the common law duty of confidentiality. This means that information that has been given to a member of staff or a councillor by an individual should not be used or disclosed further, except as originally understood by that individual, with their permission or where certain statutory functions need to be met. Please note that the duty of confidentiality continues after a person is deceased even when the data protection legislation would no longer apply.

Our staff and councillors are subject to a Code a Conduct relating to confidentiality. Staff have a confidentiality clause in their contracts.

Our caring professions are further subject to the professional codes of conduct of their professions relating to the confidentiality of their relationship with service users and clients.

**9. Information about Criminal Offences**

The processing of information about criminal allegations, convictions or offences by the council is in accordance with our legal obligations and because we have legal authority in certain areas, such as the enforcement of parking rules, preventing fly-tipping, upholding food hygiene and licensing of pubs and clubs.

**10. Surveillance**

The council operates CCTV for traffic management and public safety. We operate under a Code of Practice prescribed by the Information Commissioner’s Office (ICO).

The council uses the Regulation of Investigatory Powers Act 2000 (RIPA) to conduct covert surveillance involving directed surveillance or the use of a covert human intelligence source (CHIS). The council complies with the Codes of Practice that are overseen by the Investigatory Powers Commissioner’s Office (IPCO). This is only for matters that the council has responsibility for, and for directed surveillance must either involve a criminal offence which we are trying to prevent or detect, which is punishable by a maximum of at least 6 months imprisonment, or would constitute an offence involving sale of tobacco and alcohol to underage children. The surveillance has to be authorised by a magistrate.

The council’s Audit Committee receives a yearly report and monitors the use of such powers. We are also inspected by the IPCO. There is a RIPA online course available to all staff and councillors and specific training can be arranged with legal services.

**11. Recording of Meetings etc**

The Data Protection Act does not prevent members of the public recording meetings or conversations with a member of staff within a private meeting area or their home (including meeting rooms in CDC buildings). A member of the public is not a data controller for the purposes of the Act if they only use the recording for their own domestic purposes. For example, they may want to record a meeting to remind them what has been said, so they don’t need to take notes and can fully engage in the meeting etc. Although this can feel intrusive, it is not a breach of staff’s right to privacy as only professional matters will be discussed. However, if the recording is then published or used for other purposes, this processing may fall within the remit of the Data Protection Act.

If a member of the public wants to record a meeting, they should be advised that they can only do so for their own personal use and cannot publish the information or make it available via social media. If they ignore this advice, they should be asked to remove the information from the website / social media site. If they don’t remove it, representation can be made to the provider to remove the content. Seek advice from legal services in such cases.

If a member of staff records a meeting or conversation, this will be covered by the Act as it is made for professional purposes.

Members of the public cannot record, film or take photographs in open areas of our public buildings as we have a duty of care to customers accessing services. We offer a wide range of services in many council buildings including Housing and Homeless provision, we have extremely vulnerable customers visiting us, including those with mental health conditions and customers fleeing domestic abuse. Therefore it is vitally important that we provide a safe and secure place for them to be whilst they receive our help and support. In a public building our customers should feel confident that they can enter and access services without being subject to recording or photographs.

**12. Automated Processing**

Where the council relies on automated decision-making (making a decision solely by automated means without any human involvement) which affects an individual, we inform the individual; introduce simple ways for them to request human intervention or challenge a decision; and carry out regular checks to make sure that our systems are working as intended.

**13. Privacy Notices**

The council provides privacy notices, which are statements to individuals about how we will use their personal data. The information includes our purposes for processing their personal data, retention periods for that personal data, and who it will be shared with. This information is on the council’s website, and individuals are referred to it at the time we collect their personal data from them.

Where we obtain personal data from other sources, we provide individuals with privacy information within a reasonable period of obtaining the data and no later than one month.

**14. Individual Rights**

Individuals whose data is processed by the council have a number of rights in law. These are set out in the following policies:

[Information Governance - Intranet (doncaster.gov.uk)](https://intranet.doncaster.gov.uk/directorates/finance-corporate-services/information-governance)

[https://dmbcwebstolive01.blob.core.windows.net/media/Default/Council%20and%20Democracy/Documents/Individuals'%20Rights%20Procedure%20-%20Guidance%20for%20the%20public.pdf](https://dmbcwebstolive01.blob.core.windows.net/media/Default/Council%20and%20Democracy/Documents/Individuals%27%20Rights%20Procedure%20-%20Guidance%20for%20the%20public.pdf)

**15. Information Sharing**

The council believes that the duty to share information can be as important as the duty to protect information. This is the seventh Caldicott Principle, which applies to the handling of health and social care personal information. Its purpose is to ensure that the direct care of people should not be impeded where professionals from different organisations such as social workers, nurses and community mental health workers need to support an individual.

We have signed Information Sharing Protocols setting out the principles of information sharing with partners, such as the NHS, police, probation, prisons, Department of Work and Pensions, and the Department of Levelling Up, Housing and Communities.

These protocols are supplemented by Information Sharing Agreements at the point at which data is shared. These set out what data is being shared, how it is transferred and for what purpose it is shared.

**16. Transfers of Data Outside the UK**

Most of our processing occurs in the UK or the EU where there are common standards for the processing of personal data. However, when personal data is transferred to third countries, the council must assure itself that the transfer of personal data is covered by an adequacy decision in the data protection arrangements of that country, appropriate safeguards or an exception.

**17. Privacy by Design / Data Protection Impact Assessments**

The council is committed to a privacy by design approach to building new systems and updating procedures for processing personal data. This means that we consider the risks to individual’s privacy prior to the introduction of a new system or process. We use Data Protection Impact Assessments (DPIAs) to assess this risk when we introduce new technology or changes to the processing of personal data. The assessment identifies the risk to privacy from the customer’s perspective and what steps can be taken to reduce this wherever possible whilst providing a service to the customer. Services introducing new processing are responsible for ensuring that a DPIA is completed and is sent to the information governance team at information.governance@doncaster.gov.uk

**18. Contracts**

Where the council has a contractual relationship with another organisation or individual, we will ensure we are clear about the contractor’s role, responsibilities and accountability in relation to personal information.

**19. Information Security**

The Council has both technical and operational measures in place to ensure that information is held and used securely. Guidance on how to use ICT equipment and what is considered to be acceptable use is available on the link below:

 <https://intranet.doncaster.gov.uk/directorates/finance-corporate-services/ict-policies>

The council has a cyber security team and obtains independent assurance of its information security measures and compliance with standards.

The council complies with the Data Security and Protection Toolkit of the Department of Health/NHS for handling personal confidential data.

Access to Information - All users with access to our data are authenticated and provided with a unique user ID. Access to information and systems will be based on access required for each individual role. Service areas will provide justification for the access requirements and management will authorise. Access to a system only authorises you to access records required for work purposes. You are not entitled to ‘browse’ records or look at files not relevant to your work.

Email – The council’s email system uses Transport Layer Security 1.3 (TLS), a security protocol that encrypts email for privacy. TLS prevents unauthorized access of email when it's in transit over internet connections and by default, our email security system always tries to use a secure TLS connection when sending email. This means you no longer need to use the Sophos ENCRYPT facility to send secure email.

Clear desk procedure – Thecouncil operates a clear desk procedure. All information must be securely stored at the end of the working day and must not be accessible by anyone not authorised to access it.

Locking screens - If you are leaving your desk ensure you lock your screen so that information on databases or the network cannot be accessed inappropriately. Press ‘windows key+L’ to lock your screen and logout at the end of the day. When working at home you should also adopt this practice so that family members or visitors cannot see your screen When working anywhere out of the office, ensure that your screen cannot be seen by other people.

Handling paper documents - Paper documents containing sensitive information must only be seen by authorised individuals. Keep these documents secure by storing them in team lockers. When taking paper documents off-site ensure they are in your direct possession or out of sight, ideally in a locked case. Only take the minimum necessary to complete your business purpose.

Malevolent Emails, Phishing etc - Email is an essential business tool. However, it is equally useful for criminals to gain unauthorised access to council systems, information and passwords. Be especially vigilant for emails not addressed to you specifically, containing links taking you to another website, or having attachments that you don’t recognise. If you are suspicious of an email and / or actually click on a link it is essential you log this on iServe straightaway~~.~~ Additional information and training is available on the learning portal and the intranet at: [Spam and Phishing](https://intranet.doncaster.gov.uk/directorates/finance-corporate-services/managing-spam-emails).

Passwords -Guidance on setting strong passwords can be found here:  [Information Security](http://intranet.doncaster.gov.uk/directorates/finance-corporate-services/information-security) – <https://intranet.doncaster.gov.uk/directorates/finance-corporate-services/cyber-security>

Storing Electronic Information -Electronic information must onlybe stored on the council network or on systems previously authorised by ICT.

Retention and Deletion of Information - Information should be kept no longer than necessary in accordance with statutory or best practice retention periods. When information has reached the end of its retention period it should be disposed of in accordance with the council’s retention schedule which is available at: <https://www.doncaster.gov.uk/services/the-council-democracy/data-protection-policy>

**20. Data Protection Breaches**

The council tries hard to prevent information breaches, but when these occur, there is an incident reporting and investigation procedure. Where a breach is a serious risk to the rights and freedoms of anyone, it will be reported to the Information Commissioner’s Office within 72 hours.

When information is accessed or disclosed inappropriately or any equipment or information is lost, the incident must be reported to information.governance@doncaster.gov.uk. Further information on how to report an incident/breach can be found [here](https://intranet.doncaster.gov.uk/directorates/finance-corporate-services/information-security)

The Information Governance and Cyber Security teams will investigate and take appropriate mitigation measures.

**21. Human Resources**

New members of staff and councillors must complete the online data protection training when they receive their ICT equipment. All staff must complete the training annually. It is the responsibility of managers to ensure this happens and that staff have adequate understanding of their data protection responsibilities.

All employee contracts make it clear that a breach of policy can lead to disciplinary action. Where staff have access to sensitive data additional safeguards may be implemented to provide a higher level of security, e.g. DBS checks for staff working directly with vulnerable adults or children and / or Baseline Personal Security Standard checks for staff with elevated privileges.

**22. Data Protection Officer**

The council has appointed a Data Protection Officer as required by law. Their role is to ensure the compliance of the council with data protection law. Both the Data Protection Officer and the Information Governance Team can be contacted at: information.governance@doncaster.gov.uk

**23. Compliance**

Compliance with this policy is monitored by the Senior Information Risk Officer (SIRO) and the SIRO Board.

**24.** **References**

UK GDPR is the retained EU law version of the General Data Protection Regulation (EU) 2016/679

Data Protection Act 2018

The Caldicott Principles www.ukgc.uk

Information Commissioner’s Office: [www.ico.org.uk](http://www.ico.org.uk)

**24. Related Policies and Procedures**

The Data Protection Policy should be read with:

Protecting Special Category Data Policy
Rights of Individuals Policy
Data Protection Impact Assessment Procedure

[ICT Policies - Intranet (doncaster.gov.uk)](https://intranet.doncaster.gov.uk/directorates/finance-corporate-services/ict-policies)